

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

---

UNITED STATES OF AMERICA,

Plaintiff,

DECISION AND ORDER

08-CR-6270L

v.

TRYN PARKER,

Defendant.

---


This Court referred all pretrial matters to United States Magistrate Judge Marian W. Payson pursuant to 28 U.S.C. § 636(b). Defendant is represented by counsel and counsel filed pretrial motions. Defendant himself also filed some *pro se* motions. After conducting proceedings, Magistrate Judge Payson issued a Report and Recommendation (Dkt. #51) on October 21, 2009, recommending that the motions to dismiss the indictment and to suppress identification be denied.

A few days later, on October 28, 2009, Parker filed another *pro se* motion (Dkt. #52). This motion, 34 pages in length, seeks to dismiss the indictment on a different ground than was advanced previously. I do not, therefore, treat this filing as an appeal or objection to Magistrate Judge Payson's Report and Recommendation (Dkt. #51).

Because Parker is represented by counsel, this Court has no duty or obligation to consider *pro se* motions especially since this most recent motion of Parker (Dkt. #52) is untimely.

Nevertheless, because this Court did refer pretrial motions to Magistrate Judge Payson, I ask the Magistrate Judge to consider this motion in the first instance. Magistrate Judge Payson should give the Government a chance to respond and then determine in a Report and Recommendation whether the Court should even consider the motion and, if so, what the recommendation for disposition is.

IT IS SO ORDERED.



---

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
November 5, 2009.